LIBRARY
SUPREME COURT, U.S.

Supreme Court, U.S.
FILED
OCT 12 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-352

JOSEPH COLOMBO,

Petitioner,

—against—

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

EUGENE GOLD
District Attorney
Kings County
400 Municipal Building
Brooklyn, New York
(212) 643-5100

RONALD M. KLEINBERG
ROGER BENNET ADLER
Assistant District Attorneys
of Counsel

INDEX

	PAGE
Statement	1
Jurisdiction	2
Statutes	2
Facts	5
ARGUMENT:	
POINT ONE—A conviction for contempt under the New York Judiciary Law Sec. 750 does not bar prosecution for criminal contempt under New York Penal Law Sec. 600. The double jeopardy clauses of the state and federal constitutions do not bar prosecution for one by reason of previous punishment for the other	9
POINT TWO—The decision in Waller v. Florida does not bar this prosecution of the Petitioner for criminal contempt	14
CONCLUSION	17

AUTHORITIES CITED

Cases

Abbate v. United States, 359 U.S. 187 (1959)	9
Downum v. United States, 372 U.S. 734 (1963)	9
Fireman's Fund Insurance Co. v. Myers, 439 F. 2d 834 (3rd Cir. 1971)	13

PAGE

Gompers v. Buck's Stove and Range Co. 221 U.S. 418 (1911) 11

Lewinson v. United States, 278 F. 2d 421 (7th Cir. 1921), cert. den. 258 U.S. 630 (1922) 13

Matter of Koota v. Colombo, 50 Misc. 2d 583, 25 A.D. 2d 497, 17 N.Y. 2d 147; and cert. den. 384 U.S. 1001 6

Matter of Second Additional Grand Jury of County of Kings v. Cirillo, 16 A.D. 2d 605 (2d Dept. 1962) affd. 12 N.Y. 2d 206 (1963) 10

Mirra v. United States, 220 F. Supp. 361 (S.D.N.Y. 1963) 14

People v. Colombo, 32 A.D. 2d 812 7

People v. Colombo, 25 N.Y. 2d 641, 306 N.Y.S. 2d 258 8

People v. Costello and Marangello, 21 N.Y. 2d 967 1968) 11

People v. Gallo, 32 A.D. 2d 812 7

People v. Meakin, 133 N.Y. 214 (1892) 10, 11

People ex rel. Sherwin v. Mead, 92 N.Y. 415 (1883) 10

Price v. Georgia, 398 U.S. 323 (1970) 9

Shillitani v. United States, 384 U.S. 364 (1966) 12

United States v. Dixon, 347 U.S. 381 (1954) 9

United States v. Jorn, 400 U.S. 470 (1971) 9

United States v. Mirra, 220 F. Supp. 361 (S.D.N.Y. 1963) 9

United States v. Rollerson, 308 F. Supp. 1014 (D.C. D.C. 1970) 14

Uphaus v. Wyman, 360 U.S. 72 (1959) 10

Waller v. Florida, 397 U.S. 387 (1970) 8, 14, 15, 16

Yates v. United States, 355 U.S. 66 (1957) 13

Statutes

PAGE

§ 28 U.S.C. 1257 (3) 2

United States Constitution

Fifth Amendment 2, 15

Fourteenth Amendment 2, 15

Former Penal Law of the State of New York

Section 600 ..... 2, 9, 10, 11
Section 601 2
Section 602 ..... 3, 10
Section 750 Judiciary Law of the State of New York 3, 9, 10, 11
Section 750 sub 3 6
Section 755 of the Judiciary Law of the State of New York 4
Section 1938 3
Section 2447 5

Miscellaneous

Volstead Act 13

IN THE

Supreme Court of the United States

October Term, 1971

No. 71-352

JOSEPH COLOMBO,

Petitioner.

—against—

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Statement

Petitioner seeks a writ of certiorari in order to review an order of the Court of Appeals of the State of New York entered June 10, 1971 which affirmed the order and judgment of the Court of Appeals decision of October 30, 1969 which affirmed the order of the Supreme Court of the State of New York, Appellate Division, Second Department, dated June 16, 1969, which in turn reversed an order of the Supreme Court of the State of New York, Kings County, dated July 20, 1967, and entered August 22, 1967 which dismissed the indictment charging the defendant with the crime of Criminal Contempt of Court under Section 600, subdivision 6, of the former New York Penal Law.

Jurisdiction

The jurisdiction of this court is sought to be invoked under 28 U.S.C. 1257 (3). Petitioner contends he was denied his rights under the Fifth and Fourteenth Amendments to the United States Constitution.

Petitioner argues that his fundamental constitutional rights were violated by his being twice put in jeopardy for the same offense.

Statutes

The following are the applicable statutes:

Section 600 of the former Penal Law of the State of New York provides:

Criminal Contempt

"A person who commits a contempt of court of any one of the following kinds, is guilty of a misdemeanor; Subdivision 6-Contumacious and unlawful refusal to be sworn as a witness, or, after being sworn, to answer any legal and proper interrogatory."

Section 601 of the former Penal Law of the State of New York provides:

Punishment For Criminal Contempt

"A criminal act is not the less punishable as a crime, because it is also declared to be punishable as a contempt of court."

Section 602 of the former Penal Law of the State of New York provides:

Indictment For Contempt

"Punishment for a contempt, as prescribed in Article nineteen of the Judiciary Law, does not bar an indictment for the same offense; but where a person who has been so punished is convicted on such an indictment, the court, in sentencing him, must take into consideration the previous punishment."

Section 1938 of the former Penal Law of the State of New York provides:

Punishment When Different Penalties Are Provided By Different Provisions of Law

"An act or omission which is made criminal and punishable in different ways, by different provisions of law, may be punished under any one of those provisions, but not under more than one; and a conviction or acquittal under one bars a prosecution for the same act or omission under any other provision."

Section 750 Judiciary Law of the State of New York provides:

Power of Courts to Punish For Criminal Contempts

"A. A court of record has power to punish for a criminal contempt, a person guilty of any of the following acts, and no others:

1. Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Breach of the peace, noise, or other disturbance, directly tending to interrupt its proceedings.

3. Wilful disobedience to its lawful mandate.

4. Resistance wilfully offered to its lawful mandate.

5. Contumacious and unlawful refusal to be sworn as a witness; or, after being sworn, to answer any legal and proper interrogatory.

6. Publication of a false, or grossly inaccurate report of its proceedings. But a court cannot punish as a contempt, the publication of a true, full, and fair report of a trial, argument, decision, or other proceeding therein.

7. Wilful failure to obey any mandate, process or notice issued pursuant to articles sixteen, seventeen, eighteen, eighteen-a or eighteen-b of the Judiciary Law, or to rules adopted pursuant thereto, or to any other statute relating thereto, or refusal to be sworn as provided therein, or subjection of an employee to discharge or penalty on account of his absence from employment by reason of jury service in violation of this chapter. Applications to punish the accused for a contempt specified in this subdivision may be made by notice of motion or by order to show cause, and shall be made returnable at the term of the Supreme Court at which contested motions are heard, or of the county court if the Supreme Court is not in session."

Section 755 of the Judiciary Law of the State of New York provides:

"When punishment may be summary; where the offense is committed in the immediate view and presence of the court . . . upon a trial or hearing, it may be punished summarily . . ."

Facts

The Regular April 1964 Grand Jury, as duly extended by orders of the Supreme Court, had been conducting an investigation, since September 1965, into an alleged criminal conspiracy to commit the crimes of bribery, extortion, usury and other related crimes in the County of Kings, and the use of certain legitimate business enterprises as a cover for monies obtained from said criminal activities.

The defendant-appellant was subpoenaed to testify before said Grand Jury on October 14, 1965. Appellant after being duly sworn refused to answer any of the questions propounded to him based upon his respective Federal and State privilege against self-incrimination, and the belief that the Grand Jury inquiry was irrelevant, improper and immaterial.

Thereafter, at the request of the District Attorney of Kings County, the Grand Jury voted to grant appellant full and complete immunity pursuant to former Penal Law Section 2447. Despite the grant of full and complete immunity, the appellant persisted in asserting his privilege against self-incrimination, and continued to challenge the propriety, relevancy and materiality of the Grand Jury's investigation and questions propounded.

On October 20, 1965, the District Attorney applied to the Justice presiding in Criminal Term Part I of the Supreme Court of the State of New York for a direction to the appellant herein to return to the Grand Jury and answer the questions propounded.

The Court conducted a hearing in open court, heard argument by counsel, and received briefs from the respective

parties. The Presiding Justice, Hon. Hyman Barshay thereafter directed all of the parties to appear before the court on December 7, 1965, at which time the defendant was directed by the Presiding Justice to return to the Grand Jury room and answer the questions propounded. The Presiding Justice found that the Grand Jury was in fact conducting a material and relevant investigation pursuant to law, and that the questions propounded were material and relevant to the proper conduct of that investigation.

After hearing said direction of the Presiding Justice appellant herein informed the court, that his position was unchanged and that he refused to return to the Grand Jury to answer any questions.

The Appellant was then adjudged to be in civil contempt pursuant of Section 750 sub 3 the Judiciary Law of the State of New York, and the Appellant was sentenced to a term of 30 days in the Civil Prison in the City of New York and a fine of $250. The proceedings were adjourned to December 15, 1965 to afford the appellant an opportunity to reconsider his refusal to obey the court's mandate and direction to testify, and to afford the District Attorney the opportunity to prepare the commitment order.

On December 15, 1965, the position of the appellant was unchanged and the Presiding Justice signed the commitment order. The entire proceedings aforementioned were reviewed and sustained by our Appellate Courts, and certiorari was denied by the United States Supreme Court. (*Matter of Koota* v. *Colombo*, 50 Misc. 2d 583, 25 A.D. 2d 497, 17 N.Y. 2d 147; and cert. den. 384 U.S. 1001.)

While the petition for a writ of certiorari was pending in the United States Supreme Court, the stay of execution

of the commitment order granted by the Appellate Courts expired, and on May 9, 1966, the Presiding Justice refused any further stay. The offer of the appellant herein, on May 9, 1965, to appear before the Grand Jury and testify was refused by the District Attorney and the appellant was committed and served his thirty day jail sentence and paid a $250 fine.

Thereafter on October 10, 1966, the Kings County Grand Jury returned an indictment against the appellant Joseph Colombo, charging him with violation of (Section 600, subdivision 6, of the former Penal Law), for contumaciously and unlawfully refusing to testify after being duly sworn.

The defendant-appellant thereafter moved to dismiss the respective indictment which motion was granted by orders of Hon. Vincent D. Damiani, a Justice of the Supreme Court of the County of Kings. The Court having stated that the District Attorney should have presented evidence to the Grand Jury of the defendant-appellant's offer to appear before the Grand Jury at the time of his surrender on May 9, 1965, pursuant to commitment order.

An appeal from the dismissal order was taken to the Appellate Division of the Supreme Court, Second Judicial Department, which on June 16, 1969, reversed the decision of the lower court. The opinion of the Appellate Division clearly recited that ". . . the evidence before the Grand Jury would, if unexplained or uncontradicted, warrant a conviction for violation of subdivision 6 of section 600 of the Penal Law of 1909 (Code Crim. Pro., sec. 251)." *People* v. *Colombo*, 32 A.D. 2d 812; *People* v. *Gallo*, 32 A.D. 2d 812.

On July 7, 1969, Chief Judge Stanley Fuld of the New York Court of Appeals granted permission to appellant

Joseph Colombo to appeal from the order of the Appellate Division. On October 30, 1969, the New York Court of Appeals affirmed the order of the Appellate Division of the Supreme Court, Second Department, *People* v. *Colombo*, 25 N.Y. 2d 641, 306 N.Y.S. 2d 258. Thereafter, petitioner made a motion for reargument to the Court of Appeals. On February 26, 1970, the Court of Appeals denied the motion for reargument but amended its remittur by adding the following:

> "Upon the appeal herein there was presented and necessarily passed upon a question under the Constitution of the United States, viz: whether the rights of defendant under the Fifth and Fourteenth Amendments were denied. Defendant argued that his fundamental constitutional rights were violated by his being twice put in jeopardy for the same offense. The Court of Appeals considered his contention and held that there was no violation of the defendant's constitutional rights."

A timely petition for a writ of certiorari was brought before this Court. On October 19, 1970 this Court (per curiam) granted the petition for a writ of certiorari; vacated the judgment and remanded this matter to the New York Court of Appeals for reconsideration in light of *Waller* v. *Florida*, 397 U.S. 387. On June 10, 1971 the Court of Appeals adhered to its prior decision of affirmance (29 N.Y. 2d 1, 323 N.Y.S. 2d 161).

ARGUMENT

POINT ONE

A conviction for contempt under the New York Judiciary Law Sec. 750 does not bar prosecution for criminal contempt under New York Penal Law Sec. 600. The double jeopardy clauses of the state and federal constitutions do not bar prosecution for one by reason of previous punishment for the other.

The double jeopardy clauses of the State and Constitution are applicable only to prosecutions for the same offense. What is proscribed is the status of being twice put in jeopardy; there is no prohibition against being twice punished.* This was observed by Justice Brennan in *Abbate* v. *United States*, 359 U.S. 187, 199 (1959), wherein it was stated:

> "In short, 'the prohibition' is not against being twice punished, but against being twice put in jeopardy . . ." (citing *United States* v. *Ball*, 163 U.S. 662 (1896)

Put another way, the government is not always prepared under all circumstances to vindicate all the interests of law enforcement through the vehicle of a single proceeding. *United States* v. *Jorn*, 400 U.S. 470, 91 S. Ct. 547, 556 (1971).

Indeed, as this Court wrote in *United States* v. *Dixon*, 347 U. S. 381, 385 (1954);

---

* *Price* v. *Georgia*, 398 U.S. 323, 326 (1970); *Downum* v. *United States*, 372 U.S. 734, 736 (1963); *United States* v. *Mirra*, 220 F. Supp. 361, 363 (S.D.N.Y. 1963).

> "Clearly Congress may impose both a criminal and civil sanction in respect to the same act; this is neither unusual nor constitutionally objectionable. See *Helvering* v. *Mitchell,* 303 U.S. 391, 399-400 (1938)."

Thus, if the sanctions imposed are not both criminal, the double jeopardy clause is not offended.

In the case at bar, the Petitioner was convicted of a contempt under Sec. 750 of the Judiciary Law. Such a contempt has long been recognized as civil in nature, in New York. *People ex rel Sherwin* v. *Mead,* 92 N.Y. 415 (1883); *People* v. *Meakin,* 133 N.Y. 214 (1892). Quite clearly when a defendant possesses the keys to the prison door (consenting to testify) the purpose of the contempt citation is strictly of a coercive nature. *Matter of Second Additional Grand Jury of County of Kings* v. *Cirillo,* 16 A.D. 2d 605, 607 (2d Dept. 1962) affd. 12 N.Y. 2d 206 (1963). The conditional nature of the imprisonment based upon the contemnor's continued defiance justifies holding civil contempt proceedings absent the safeguard of indictment and jury. *Uphaus* v. *Wyman,* 360 U.S. 72 (1959).

On the other hand, a sentence imposed under authority of Sec. 600 of the former Penal Law has punishment and not coercion as its source and function. It should be observed at this juncture that should a defendant be convicted of both contempts the court must take into consideration the previous punishment (former Penal Law Sec. 602).

This dichotomy between the two offenses was recognized in New York in *People ex rel Sherwin* v. *Mead, supra,* where the Court said, at p. 420:

> "One who disobeys the lawful order of a court not only offends against the dignity of the particular

> tribunal, but also against the public law . . . The statute contemplates that both remedies, or either may be pursued. If the court has first moved and proceeded against the offenders by attachment and inflicted punishment, he may nevertheless be indicted for the same wrong, but in that event the sentence is to be affected by the previous punishment."

Similarly, the Court of Appeals reaffirmed its position in *People* v. *Meakin, supra* at p. 225.

> "These provisions have been embodied in our law for a long time (2 R.S. 207, 208); and it has never been supposed that a punishment under either law was a bar to a proceeding under the other (*Bishop on Crim. Law,* Sec. 1067)."

This viewpoint was most recently reaffirmed in *People* v. *Costello* and *Marangello,* 21 N.Y. 2d 967 (1968) where the Court of Appeals refused to disturb a conviction for criminal contempt which followed a conviction for contempt pursuant to Sec. 750 (a, 5) of the Judiciary Law. The Court rejected the assertion that to permit such prosecution subjected them to double punishment in violation of the defendant's constitutional and statutory rights.

It is therefore a clearly established policy in New York that there is a distinct dichotomy between criminal contempt under Section 750 of the Judiciary Law, and criminal contempt as a misdemeanor under Section 600 of the former Penal Law. This is so not only because the contempt in each instance flows from a different statute, but because the time honored tests for whether contempt is criminal or civil is met.

Since at least the time of *Gompers* v. *Buck's Stove and Range Co.* 221 U.S. 418 (1911), the test of whether contempt

be criminal or civil is determined not by the fact of punishment, but rather the character and purpose of the contempt citation.

> "If it is for civil contempt the punishment is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive to vindicate the authority of the court." *Gompers* v. *Buck's Stove and Range Co.*, *supra* at p. 441.

The Court went on to observe:

> "It is true that either form of imprisonment has also an incidental effect. For if the case is civil and the punishment is purely remedial, there is also a vindication of the court's authority. On the other hand, if the proceeding is for criminal contempt and the imprisonment is solely punitive, to vindicate the authority of the law, the complainant may also derive some incidental benefit from the fact that such punishment tends to prevent a repetition of the disobedience. But such indirect consequences will not change imprisonment which is merely coercive and remedial, into that which is solely punitive in character, or *vice versa*." *Gompers* v. *Buck's Stove and Range Co.*, *supra* at p. 443.

This test was followed by this Court as recently as 1966 in *Shillitani* v. *United States*, 384 U.S. 364, 368:

> "We believe that the character and purpose of these actions clearly render them civil rather than criminal contempt proceedings. See *Penfield Co.* v. *Securities & Exchange Comm'n*, 330 U.S. 585, 590, 91 L. Ed. 1117, 67 S. Ct. 918 (1947). As the distinction was phrased in *Gompers* v. *Buck's Stove & Range Co.*, 221 U.S. 418, 55 L. Ed. 797, 809, 31 S. Ct. 492 (1911), the act of disobedience consisted solely ' in refusing

> to do what had been ordered,' in refusing to do what had been ordered, i.e. to answer the questions, not 'in doing what had been prohibited.' And the judgments imposed conditional imprisonment for the obvious purpose of compelling the witness to obey the orders to testify. When the petitioners carry 'the keys of their prison in their own pocket,' In re Nevitt, 117 F. 448, 461 (C.A. 8th Cir. 1902), the action is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees. *Green* v. *United States,* 356 U.S. 165, 197 2 L. Ed. 2d 672, 696, 78 S. Ct. 632 (1958) (Black J. dissenting)."

This test is applicable and determinative regardless of whether the contemnor be ordered imprisoned for a definite period. *Yates* v. *United States,* 355 U.S. 66 (1957). It is what the court seeks to accomplish rather than the fact of imprisonment which governs. (See also *Fireman's Fund Insurance Co.* v. *Myers,* 439 F. 2d 834, 837 (3rd Cir. 1971). Judicial contempt, where punishment is remedial and the sentence coercive, is not a crime in the constitutional sense.

The federal courts have long held that the double jeopardy clause of the constitution is not violated by a criminal prosecution for contempt, even though the contemnor has previously been punished summarily or otherwise by the court for his contempt. In *Lewinson* v. *United States,* 278 F. 2d 421 (7th Cir. 1921), cert. den. 258 U.S. 630 (1922), the defendant was punished for contempt in violating a so-called "liquor injunction" under the Volstead Act. The court held that even though the very same act was also punishable under a criminal statute there was no violation of the double jeopardy clause.

The question involved in the case at bar was also found in *Mirra* v. *United States,* 220 F. Supp. 361 (S.D.N.Y. 1963) where Judge Edelstein held that the double jeopardy clause of the United States Constitution does not prevent the prosecution for assault of a defendant who hurled a chair at an Assistant United States Attorney and who was summarily held in contempt and sentenced to one year imprisonment.

In *United States* v. *Rollerson,* 308 F. Supp. 1014, 1018 (D.C. D.C. 1970) the Court in holding that a criminal prosecution arising out of and subsequent to a summary contempt conviction does not offend the policy underlying the protection against double jeopardy, stated:

> "The separate interests of the Federal Court in itself protecting the dignity of the Court, and of the Federal prosecuting authority in initiating action to protect persons and property, recognized in *Mirra,* have consistently been recognized by the Courts. That separate interests in different governmental interests will support convictions under separate statutes making criminal the same acts which injure both interests was fully recognized by Justice Brennan in *Abbate* v. *United States,* 359 U.S. 187, 79 S. Ct. 666, 3 L. Ed. 2d 729 (1959)."

POINT TWO

The decision in *Waller* v. *Florida* does not bar this prosecution of the Petitioner for criminal contempt.

The case at bar is distinguishable from this Court's recent holding in *Waller* v. *Florida,* 397 U.S. 387 (1970). In *Waller,* the defendant was charged with the destruction of city property and disorderly conduct by the City of St.

Petersburg for his part in the unlawful removal and taking through the City streets of a mural from the St. Petersburg City Hall. Waller was found guilty of both counts in the municipal court and sentenced to 180 days imprisonment.

Subsequently, he was charged by an information by the State of Florida with grand larceny. It was conceded that the information was founded upon the identical acts for which the defendant had been convicted in the municipal court. This Court held that the second prosecution constituted double jeopardy, and hence was violative of the Fifth and Fourteenth Amendments.

Does the *Waller* case mandate a reversal of the established law of this State in respect to our contempt procedures? This answer should be in the negative. The Legislature of the State of New York has made it very clear that in an appropriate situation, an individual may be prosecuted for contempt both under the Judiciary Law and under the Penal Law. Section 602 of the former Penal Law of the State of New York provides:

> "Punishment for contempt as described in Article 19 of the Judiciary Law does not bar an indictment for the same offense; but where a person who has been so punished is convicted on such an indictment, the Court in sentencing him must take into consideration the previous punishment."

The similarity which exists between the instant case and the *Waller* decision is tangential at best. In both cases, the defendant committed an initial wrongful act that became the basis for two separate court proceedings, but in the *Waller* case, the initial wrongful act was the only act involved. The wrong was committed against the State of

Florida when the defendant removed the painting from City Hall. The State of Florida hence could only punish the defendant once for that wrongful act. The instant case is completely different. The initial wrongful act was committed against the State of New York when the defendant refused to testify in the Grand Jury after being granted immunity, the wrong being that the State of New York is entitled to every man's evidence which it feels will benefit the community as a whole. Thereafter, the appellant committed a second and a completely distinctive wrongful act. The appellant, in open court, refused to obey the lawful order of the Supreme Court Judge who directed him to return to the Grand Jury and testify, this wrong being committed against the dignity of the court, and constituting a civil contempt.

Thus the case at bar is distinguishable from *Waller* v. *Florida, supra,* which merely terminated the fiction that City and State are separate sovereignties. *Waller* can only hold that a person may not be tried by the State after previously being convicted by a municipality for the very same acts.

In *Waller,* the State sought to enact bifurcated statutory punishment through a State-Municipal dichotomy. In the instant proceeding, we are only concerned with the propriety of our contempt procedure. Our State's protected social interests warrant different legal sanctions in contempt cases. The petitioner committed two different acts which manifested itself into two different wrongs. One punishment is for violation of the law created by the legislature and the other for an offense against the judiciary. The interests to be protected are different and warrant separate and individual treatment.

In the final analysis, the wisdom of New York's policy is not at issue. Indeed, there may be those who would proceed differently in drafting legislation to deal with witnesses who balk at testifying before Grand Juries. We merely contend that New York has the right to proceed as it has done and that the double jeopardy clause does not thwart New York's time old practice. The conviction should be affirmed not merely because we in New York think it is proper, but rather because there is nothing in the constitution holding that it is improper.

CONCLUSION

The petition for the Writ of Certiorari should be denied.

Dated: Brooklyn, New York
October 1, 1971

Respectfully submitted,

EUGENE GOLD
District Attorney
Kings County

RONALD M. KLEINBERG
ROGER BENNET ADLER
Assistant District Attorneys
of Counsel